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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/772,750	02/04/2004	Koichi Yamada	ITL.2434US (P18129)	5683

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EXAMINER	
GEIB, BENJAMIN P	

ART UNIT	PAPER NUMBER
2181	

MAIL DATE	DELIVERY MODE
11/18/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	**Application No.**	**Applicant(s)**
	10/772,750	YAMADA ET AL.
	Examiner	**Art Unit**
	BENJAMIN GEIB	2181

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 September 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.
   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

Benjamin P Geib Examiner Art Unit: 2181	/Chun-Kuan Lee/ Primary Examiner, Art Unit 2181

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues the rejection/novelty of the invention, in substance, that "The cited langauge is more general because it does not say anything about when a stream asserted to correspond to a logical processor is inactive" and "the cited language does not meet the claim limitation that a processor execution resource previously reserved for one logical processor is made availabe to any of a plurality of other logical processors." These points related to claim language that recites "in response to a first logical processor in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, making a processor execution resource previously reserved for the first logical processor available to any of the plurality of logical processors." Nemirovsky et al., U.S. Patent No. 6,389,449 has taught that a stream (i.e. logical processor) reserves resources for itself (column 6, lines 41-46 and "manipulate[s] its own resource allocation and priority according to its needs" (Column 9, lines 49-53). Because a stream manipulates its resource allocation according to its needs, a stream that is going idle, and therefore does not need all of its resources, will manipulate its resource allocation to reflect this situation by indicating that the resources no longer needed are no longer reserved by the stream. By indicating that certain resources are no longer reserved by the stream, other streams are allowed to use those particular resources, which were previously reserved. Therefore, Nemirovsky has taught "in response to a first logical processor in the plurality of processors being scheduled to enter an idle state due to lack of scheduling tasks, making a processor execution resource previously reserved for the first logical processor available to any of the plurality of logical processors" as recited in the claims.

Regarding the Applicant's assertion that the examiner's conclusion of obviousness is based upon hindsight reasoning, the examiner notes that the obviousness rejection indicates what the cited reference Nemirovsky has taught and that it would have been obvious to modify the invention to include the limitations not taught by Nemirovsky taking into account only knowledge that was within the level of ordinary skill at the time the claimed invention was made, and not including knowledge gleaned only from the Applicant's disclosure. Therefore, such an obviousness reconstruction is proper. See In re McLaughlin, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971)